

10 CFR 26, Subpart I

Draft FAQ Response on Applicability of Work Hour Controls to Travel Time

David R. Desaulniers
U.S. Nuclear Regulatory Commission
May 18, 2023

Objective

- Create awareness of a stakeholder request for clarity on NRC's requirements and guidance concerning the applicability of the work hour controls required under 10 CFR 26, Fitness for Duty Programs, to the time contractors spend traveling between sites
- Describe the staff's draft response to the inquiry
- Solicit comment on the draft response

Inquiry

“I work for a company that supplies contractors to do covered work for different nuclear facilities. We use workforce software to track our employees. My question is on travel time from plant to plant. **Are we subject to count travel time if we are moving an employee from one licensee plant to another licensee plant? Whether they are the same company or not?** It's confusing because we track all of our employees in our workforce system, but each plant has their own procedure for their WHR.”

Staff Analysis and Draft Response

- The requirements that are the subject of the inquiry are 10 CFR 26.205, Work hours
- The considerations important to responding to the inquiry are addressed in current guidance and NRC responses to Frequently Asked Questions (FAQs)
- The draft response integrates existing guidance and FAQ responses to answer the specific inquiry

Staff Analysis

10 CFR 26.205(b) states

For the purposes of this section, a licensee shall calculate the work hours of individuals who are subject to this section as the amount of time the individuals perform duties for the licensee. Except as permitted by paragraphs (b)(1) through (b)(5) of this section, **the calculated work hours must include all time performing duties for the licensee**, including all within-shift break times and rest periods during which there are no reasonable opportunities or accommodations appropriate for restorative sleep.”

Staff Analysis

Important Considerations

- When is travel time work hours for the purpose of work hour controls?
- What are the circumstances of transition from one site to another site?
- What are the guidelines for controlling work hours for transitions?

Staff Analysis

When is travel time work hours for the purpose of work hour controls?

Guidance for the accounting of travel time is provided in conjunction with the frequently asked question (FAQ) response titled “Travel Time.” As stated in the NRC’s response:

Travel time that is required by the licensee is work performed for the licensee. This time should be counted as work hours. Travel is a non-covered duty and the time spent traveling should be included in the calculation of work hours (e.g., for determining the applicability of work hour controls and waiver requirements) as would any other noncovered duty.

Guidance is provided to distinguish travel time from normal commuting time

Staff Analysis

What are the circumstances of transition from one site to another site?

NRC Regulatory Position C.10 of RG 5.73 addresses two cases:

- Individuals transition from work at one site to work at another site in close succession (i.e., 9 days or less)
- All other circumstances

Staff Analysis

What are the guidelines for controlling work hours for transitions between sites?

For transitions of 9 days or less, the receiving licensee should ensure that at the time of starting work the individual:

- has had a 34-hour break in the 9 days preceding
- did not and will not exceed
 - 16 work hours in any 24-hour period
 - 26 work hours in any 48-hour period
 - 72 work hours in any 7-day period

Staff Analysis

What are the guidelines for controlling work hours for transitions between sites?

For all other circumstances, the receiving licensee should apply the guidelines of NEI 06-11, Revision 1, Section 7.3, “Transitioning Onto a Shift or Between Covered Groups or Into a Covered Group”

- Includes guidance for minimum days off based on shift durations that is not included in the guidance for transitions of 9 days or less

Staff Analysis

What are the guidelines for controlling work hours for transitions between sites?

Availability of records

- NRC's response to FAQs recognize that work hour records for contractors arriving on site may not be readily available
- Guidance states that licensees must make reasonable efforts to verify that individuals performing covered work are fit for duty (e.g., ask the individual for their work history)

Path Forward

- The full draft response is available in the Agencywide Documents Access and Management System (ADAMS), Accession No. ML23121A212
- Staff requests comment on the draft FAQ response to be submitted by June 19, 2023
- Comments can be submitted by email to David.Desaulniers@nrc.gov

References

- Regulatory Guide (RG) 5.73, “Fatigue Management for Nuclear Power Plant Personnel” (ADAMS Accession No. ML083450028)
- Nuclear Energy Institute’s NEI 06-11, Revision 1, “Managing Personnel Fatigue at Nuclear Power Reactor Sites” (ADAMS Accession No. ML083110161)
- NRC responses to Frequently Asked Questions About Managing Fatigue can be found at <https://www.nrc.gov/reactors/operating/ops-experience/fitness-for-duty-programs/faqs/manage-fatigue.html>.